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Panaji, 18th March, 1982 (Phalguna 27, 1903) SERIES I No. 51

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Law Department (Legal Advice)

Notification

7/1/81-LGL

The Cinematograph (Amendment) Act, 1981 (Act No. 49 of 1981) which has been passed by Parliament and assented to by the President of India on 18-12-1981, and published in Gazette of India Extraordinary Part II, section I, dated 19-12-1981 is hereby republished for the information of the public.

R. V. Durbhatkar, Under Secretary (Law).

Panaji, 28th January, 1982.

The Cinematograph (Amendment) Act, 1981

AN
ACT

further to amend the Cinematograph Act, 1952.

Be it enacted by Parliament in the Thirty-second Year of the Republic of India as follows: —

1. *Short title and commencement.* — (*1*) This Act may be called the Cinematograph (Amendment) Act, 1981.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.* — In section 2 of the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), — 37 of 1952.

(*a*) for clause (*b*), the following shall be substituted, namely: —

'(*b*) "Board" means the Board of Film Certification constituted by the Central Government under section 3;';

(*aa*) after clause (*b*), the following clause shall be inserted, namely: —

'(*bb*) "certificate" means the certificate granted by the Board under section 5A;';

(*b*) after clause (*f*), the following clauses shall be inserted, namely: —

'(*g*) "regional officer" means a regional officer appointed by the Central Government under section 5 and includes an additional regional officer and an assistant regional officer;

(*h*) "Tribunal" means the Appellate Tribunal constituted under section 5D.'.

3. *Amendment of section 3.* —In section 3 of the principal Act, in sub-section (*1*), —

(*a*) for the words "Board of Film Censors", the words "Board of Film Certification" shall be substituted;

(*b*) for the words "not more than nine", the words "not less than twelve and not more than twenty-five" shall be substituted.

4. *Amendment of section 4.* — In section 4 of the principal Act, —

(*i*) in sub-section (*1*), —

(*a*) in clause (*i*), the word "or" occurring at the end shall be omitted and to clause (*i*) as so amended, the following proviso shall be added, namely: —

"Provided that, having regard to any material in the film, if the Board is of the opinion that it is necessary to caution that the question as to whether any child below the age of twelve years may be allowed to see such a film should be considered by the parents or guardian of such child, the Board may sanction the film for unrestricted public exhibition with an endorsement to that effect; or";

(*b*) after clause (*ii*), the following clause shall be inserted, namely: —

"(*iia*) sanction the film for public exhibition restricted to members of any profession or any class of persons, having regard to the nature, content and theme of the film; or";

(*c*) for clause (*iii*), the following clause shall be substituted, namely: —

"(*iii*) direct the applicant to carry out such excisions or modifications in the film as it thinks necessary before sanctioning the film for public exhibition under any of the foregoing clauses; or";

(*ii*) in sub-section (*2*), for the words, brackets and figures "clause (*ii*), clause (*iii*) or clause (*iv*)", the words, brackets, figures and letter "the proviso to clause (*i*), clause (*ii*), clause (*iia*), clause (*iii*) or clause (*iv*)" shall be substituted.

5. *Amendment of section 5A.* — In section 5A of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely: —

'(*1*) If, after examining a film or having it examined in the prescribed manner, the Board considers that —

(*a*) the film is suitable for unrestricted public exhibition, or, as the case may be, for unrestricted public exhibition with an endorsement of the nature mentioned in the proviso to clause (*i*) of sub-section (*1*) of section 4, it shall grant to the person applying for a certificate in respect of the film a "U" certificate or, as the case may be, a "UA" certificate; or

(*b*) the film is not suitable for unrestricted public exhibition, but is suitable for public exhibition restricted to adults or, as the case may be, is suitable for public exhibition restricted to members of any profession or any class of persons, it shall grant to the person applying for a certificate in respect of the film an "A" certificate or, as the case may be, a "S" certificate;

and cause the film to be so marked in the prescribed manner:

Provided that the applicant for the certificate, any distributor or exhibitor or any other person to whom the rights in the film have passed shall not be liable for punishment under any law relating to obscenity in respect of any matter contained in the film for which certificate has been granted under clause (*a*) or clause (*b*).'.

6. *Amendment of section 5B.* — In section 5B of the principal Act, in sub-section (*1*), after the words "against the interests of", the words "the sovereignty and integrity of India," shall be inserted.

7. *Substitution of new section for section 5C.* — For section 5C of the principal Act, the following section shall be substituted, namely: —

'5C. *Appeals.* — (*1*) Any person applying for a certificate in respect of a film who is aggrieved by any order of the Board —

(*a*) refusing to grant a certificate; or

(*b*) granting only an "A" certificate; or

(*c*) granting only a "S" certificate; or

(*d*) granting only a "UA" certificate; or

(*e*) directing the applicant to carry out any excisions or modifications,

may, within thirty days from the date of such order, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the aforesaid period of thirty days, allow such appeal to be admitted within a further period of thirty days.

(*2*) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fees, not exceeding rupees one thousand, as may be prescribed.'.

8. *Insertion of new sections 5D, 5E and 5F.* — After section 5C of the principal Act, the following sections shall be inserted, namely: —

"5D. *Constitution of Appellate Tribunal.* — (*1*) For the purpose of hearing appeals against any order of the Board under section 5C, the Central Government shall, by notification in the Official Gazette, constitute an Appellate Tribunal.

(*2*) The head office of the Tribunal shall be at New Delhi or at such other place as the Central Government may, by notification in the Official Gazette, specify.

(*3*) Such Tribunal shall consist of a Chairman and not more than four other members appointed by the Central Government.

(*4*) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is a retired Judge of a High Court, or is a person who is qualified to be a Judge of a High Court.

(*5*) The Central Government may appoint such persons who, in its opinion, are qualified to judge the effect of films on the public, to be members of the Tribunal.

(*6*) The Chairman of the Tribunal shall receive such salary and allowances as may be determined by the Central Government and the members shall receive such allowances or fees as may be prescribed.

(*7*) Subject to such rules as may be made in this behalf, the Central Government may appoint a Secretary and such other employees as it may think necessary for the efficient performance of the functions of the Tribunal under this Act.

(*8*) The Secretary to, and other employees of, the Tribunal shall exercise such powers and perform such duties as may be prescribed after consultation with the Chairman of the Tribunal.

(*9*) The other terms and conditions of service of the Chairman and members of, and the Secretary to, and other employees of, the Tribunal shall be such as may be prescribed.

(*10*) Subject to the provisions of this Act, the Tribunal may regulate its own procedure.

(*11*) The Tribunal may, after making such inquiry into the matter as it considers necessary, and after giving the appellant and the Board an opportunity of being heard in the matter, make such order in relation to a film as it thinks fit and the Board shall dispose of the matter in conformity with such order.

5E. *Suspension and revocation of certificate.* — (*1*) Notwithstanding anything contained in sub-section (*2*) of section 6, the Central Government may, by notification in the Official Gazette, suspend a certificate granted under this Part, for such period as it thinks fit or may revoke such certificate if it is satisfied that —

(*i*) the film in respect of which the certificate was granted, was being exhibited in a form other than the one in which it was certified; or

(*ii*) the film or any part thereof is being exhibited in contravention of the provisions of this Part or the rules made thereunder.

(*2*) Where a notification under sub-section (*1*) has been published, the Central Government may require the applicant for certificate or any other person to whom the rights in the film have passed, or both, to deliver up the certificate and all duplicate certificates, if any, granted in respect of the film to the Board or to any person or authority specified in the said notification.

(*3*) No action under this section shall be taken except after giving an opportunity to the person concerned for representing his views in the matter.

(*4*) During the period in which a certificate remains suspended under this section, the film shall be deemed to be an uncertified film.

5F. *Review of orders by Central Government.* — (*1*) Where an applicant for a certificate or any other person to whom the rights in the film have passed is aggrieved by any order of the Central Government under section 5E, he may, within sixty days of the date of publication of the notification in the Official Gazette, make an application to the Central Government for review of the order, setting out in such application the grounds on which he considers such review to be necessary:

Provided that the Central Government may, if it is satisfied that the applicant for a certificate or that other person was prevented by sufficient cause from filing an application for review within the aforesaid period of sixty days, allow such application to be filed within a further period of sixty days.

(*2*) On receipt of the application under sub-section (*1*), the Central Government may, after giving the aggrieved person a reasonable opportunity of being heard, and after making such further inquiry, as it may consider necessary, pass such order as it thinks fit, confirming, modifying or reversing its decision and the Board shall dispose of the matter in conformity with such order.".

9. *Amendment of section 6.* — In section 6 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "may at any stage" the words "may, of its own motion, at any stage," shall be substituted;

(*ii*) after the words "decided by, the Board," the words and brackets "or, as the case may be, decided by the Tribunal (but not including any proceeding in respect of any matter which is pending before the Tribunal)" shall be inserted;

(*iii*) after the proviso, the following further proviso shall be inserted, namely: —

"Provided further that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against public interest to disclose.";

(*b*) in sub-section (*2*), in clause (*b*), after the words and letter 'a "U" certificate', the words and letters 'or a "UA" certificate or a "S" certificate' shall be inserted.

10. *Insertion of new section 6B.* — After section 6A of the principal Act, the following section shall be inserted, namely: —

"6B. *Offences to be cognizable.* — Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Part shall be cognizable.". 2 of 1974.

11. *Amendment of section 7.* — In section 7 of the principal Act, —

(*a*) in sub-section (*1*), —

(*i*) in clause (*a*), —

(*a*) in sub-clause (*i*), after the words "to adults", the words "or to members of any profession or any class of persons" shall be inserted;

(*b*) in sub-clause (*ii*), the word "or" occurring at the end shall be omitted;

(*c*) after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iia*) any film which has been certified by the Board as suitable for public exhibition restricted to any profession or class of persons, to a person who is not a member of such profession or who is not a member of such class, or";

(*ii*) after clause (*c*), for the words beginning with "he shall be punishable" and ending with the words "the offence continues", the following words and provisos shall be substituted, namely:—

"he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees, or with both, and in the case of a continuing offence with a further fine which may extend to five thousand rupees for each day during which the offence continues:

Provided that notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate, or any Judicial Magistrate of the first class specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding five thousand rupees on any person convicted of any offence punishable under this Part: 2 of 1974.

Provided further that no distributor or exhibitor or owner or employee of a cinema house shall be liable to punishment for contravention of any condition of endorsement of caution on a film certified as "UA" under this Part.';

(*b*) in sub-section (*3*), after the words and letter 'an "A" certificate', the words and letters 'or a "S" certificate or a "UA" certificate' shall be inserted.

12. *Amendment of section 7A.* — In section 7A of the principal Act, —

(*a*) in sub-section (*1*), —

(*i*) after the words "the Central Government", the words ", the Tribunal" shall be inserted;

(*ii*) the words "in pursuance of an order made in this behalf by the district magistrate or by any magistrate of the first class empowered in this behalf by the district magistrate," shall be omitted;

(*b*) in sub-section (*2*), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973", shall be substituted. 5 of 1898. 2 of 1974.

13. *Amendment of section 7B.* — Section 7B of the principal Act shall be renumbered as sub-section (*1*) thereof, and —

(*a*) in sub-section (*1*) as so renumbered, for the words "in relation to such matters", the words "in relation to the certification of the films under this Part" shall be substituted;

(*b*) after sub-section (*1*) as so amended, the following sub-section shall be inserted, namely: —

"(*2*) The Central Government may, by order and subject to such conditions and restrictions as may be prescribed, authorise the regional officers to issue provisional certificates.".

14. *Amendment of section 7C.* — In section 7C of the principal Act, —

(*a*) after the words "the Central Government", the words ", the Tribunal," shall be inserted;

(*b*) for the words "any person", the words "any person or authority" shall be substituted.

15. *Amendment of section 7D.* — In section 7D of the principal Act, before the words "the Board", at both the places where they occur, the words "the Tribunal," shall be inserted.

16. *Amendment of section 7E.* — In section 7E of the principal Act, before the words "the Board", the words "the Tribunal," shall be inserted.

17. *Amendment of section 7F.* — In section 7F of the principal Act, —

(*a*) for the words "the Central Government, the Board", the words "the Central Government, the Tribunal, the Board" shall be substituted;

(*b*) for the words "the Central Government, Board or", the words "the Central Government, the Tribunal, the Board or" shall be substituted.

18. *Amendment of section 8.* — In section 8 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely: —

"(*2*) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for —

(*a*) the allowances or fees payable to the members of the Board;

(*b*) the terms and conditions of service of the members of the Board;

(*c*) the manner of making an application to the Board for a certificate and the manner in which a film has to be examined by the Board and the fees to be levied therefor;

(*d*) the association of regional officers in the examination of films, the conditions and restrictions subject to which regional officers may be authorised under section 7B to issue provisional certificates and the period of validity of such certificates;

(*e*) the manner in which the Board may consult any advisory panel in respect of any film;

(*f*) the allowances or fees payable to the members of advisory panel;

(*g*) the marking of the films;

(*h*) the allowances or fees payable to the members of the Tribunal;

(*i*) the powers and duties of the Secretary to, and other employees of, the Tribunal;

(*j*) the other terms and conditions of service of the Chairman and members of, and the Secretary to, and other employees of, the Tribunal;

(*k*) the fees payable by the appellant to the Tribunal in respect of an appeal;

(*l*) the conditions (including conditions relating to the length of films in general or any class of films, in particular) subject to which any certificate may be granted, or the circumstances in which any certificate shall be refused;

(*m*) any other matter which is required to be or may be prescribed.".

19. *Amendment of section 16.* — Section 16 of the principal Act shall be renumbered as sub-section (*1*) thereof, and after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely: —

"(*2*) Every rule made by the Central Government under this Part shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

20. *Repeal of Act 27 of 1974.* — The Cinematograph (Amendment) Act, 1974 is hereby repealed.

Law Department (Establishment)

Office of the Chief Electoral Officer

Notification

3-4-79/Elec-Vol-I

The Notification No. 56/79-XXVIII dated 16th February, 1982 issued by the Election Commission

of India, New Delhi is hereby published for general information.

U. D. Sharma, Addl. Chief Electoral Officer.

Panaji, 3rd March, 1982.

Election Commission of India

New Delhi, dated 16th February, 1982
Magha 27, 1903 (Saka)

Notification

S. O. — Whereas by its order dated the 12th February, 1982, the Election Commission of India has held and directed that the name of the "United Democratic Front" be changed to "Naga National Democratic Party" in the records of the Commission and that the Naga National Democratic Party be allowed to retain the reserved symbol 'Cock';

Now, therefore, in pursuance of clause (b) of sub-paragraph (1) and sub-paragraph (2) of paragraph 17 of the Election Symbols (Reservation and Allotment) Order, 1968, the Election Commission hereby makes the following amendment to its notification No. 56/79, dated the 28th September, 1979, published as S. O. 557(E) in the Gazette of India, Extraordinary, Part II, Section 3(ii), dated the 28th September, 1979, as amended from time to time, namely: —

In TABLE 2 appended to the said notification, against 'Nagaland' *for the figure and words* "2. United Democratic Front" appearing in column 2 of the Table, the *Figure and words "2.* Naga National Democratic Party" shall be *substituted.*

The above-mentioned amendment shall be deemed to have taken effect from *12th February, 1982.*

(No. 56/79-XXVIII)

By order,

(R. P. BHALLA)
Secretary to the Election Commission of India.

Corrigendum

In the Notification No. 2-2-81-FSH of Forest and Agriculture Department dated 9-3-1982, published in the Official Gazette, Series I (Extraordinary), No. 50, dated 12-3-1982, the number "(1)" appearing in the 10th line of Form "E" Annexure may be read as "(a)".

Government Press

Notice

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